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BirdLife Shoalhaven is a branch of BirdLife Australia Limited ABN 75 149 124 774

To:

Mayor Amanda Findley

Clrs Proudfoot, Kitchener, Watson, Pakes, Guile, Alldrick, Levett, Gartner, Digiglio,
White, Wells and Gash.

C.E.O. Stephen Dunshea

December 13, 2019

**Submission re D.A. 19.128 Proponent Initiated Planning Proposal
Rezoning Lot 1 DP 12464435 55 Wire Lane Berry**

A handwritten signature in black ink, appearing to read "Rob Dunn".

Rob Dunn
President

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Chris Grounds

Christopher Grounds
Conservation Officer

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Birdlife Shoalhaven acknowledges the Aboriginal people of the Shoalhaven, their care of country,
birds and habitat and pays respects to all Elders.

BIRDLIFE SHOALHAVEN

BirdLife Australia (BLA) is Australia's largest bird conservation organisation with over 150,000 members and supporters. For over a century its members have protected birds and their habitats, through practical conservation and advocacy based on the best available science. BirdLife Shoalhaven (BLS) is a branch of BirdLife Australia with over 600 members and supporters. The major part of our charter is to advocate for the conservation of birdlife and associated habitat in the Shoalhaven.

BIRDLIFE SHOALHAVEN RECOMMENDATION

BirdLife Shoalhaven requests councillors, in their reconsideration of the proposal to Rezone 55 Wire Lane Berry, to take into account this and all other submissions, and formal planning advice, and reject the rezoning proposal for 55 Wire Lane Berry and thus reject the Recission Motion of the agenda December 17 2019.

1.0 INTRODUCTION

BirdLife Shoalhaven (BLS) notes that:

1.10 BLS is aware of the progress of this proposal and the associated voting at Committee and the pending Recission Motion.

1.20 BLS is aware that **26 of the 27 responses to council noted in the Summary of Submissions, as reported to councillors, Objected to the proposed rezoning, including both the Berry Forum and Berry Landcare** community based groups. BLS is strongly opposed to any rezoning and supports the objections council has received to the rezoning

1.30 BLS is also aware of the **various warnings issued to local government re such rezonings.**

1.40 BLS is concerned with **the neglect of the 'Berry Corridor' concept, project and practice**, which is a compelling argument that has been presented to council. That and the absence of a specific consideration of major bird life suggests that the proposal to Rezone is not worthy of support from councillors.

1.50 It is concerning that council planning staff recommended against the rezoning proposal but were ignored by the proponent. The advice of Council Planning staff to the /proponent on 2nd April 2019 indicated:

The proposal is unlikely to be supported by Council staff at this point for the following reasons listed below. We do NOT recommend proceeding to prepare a PP for this proposal. Rather, the more appropriate course of action would be to make a submission in response to the review of the Shoalhaven Growth Management Strategy that is underway.

- a. The proposal is not the result of any strategic plan or report and is not identified in the Growth Management Strategy 2014.*
- b. The proposal is not minor and does not current an existing anomaly or error in the LEP.*
- c. Council has previously been advised by the Joint Regional Planning Panel that no further rural residential development should be supported unless a strategy has been prepared.*
- d. The land is identified as prime crop and pasture land. Agricultural land mapping in Shoalhaven is not currently being reviewed. We are not aware of any plans for review of this mapping in the foreseeable future.*
- e. The proposal would set an adverse precedent for permitting rural residential development in the locality and elsewhere in the City.*
- f. Council and the NSW Department of Planning and Environment generally oppose rural residential development unless it is identified in a strategic plan (refer to Section 9.1 Direction No. 1.2 Rural Zones).2.If you intend to proceed with the proposal.*

1.60 BLS would also note that we have been involved in prior approaches as submissions and deputations to council on Recission Motions concerning or involving environment and birdlife, viz. Cudmirrah Beach and Hyams Off-site Carparks, where we have proven conclusively that environmental considerations needed to take priority and that councillors may not have been privy to all essential considerations. On these occasions councillors have agreed unanimously with the position we have presented. BLS is suggesting that this is a similar situation.

1.70 It is of interest that the **Real Estate description** of the sale of the property notes that in addition to the pasture improved status: ***stands of beautiful Melaleuca, Turpentine and Gum trees.*** Intensification of settlement associated with the proposal would certainly put that vegetation and the habitat and corridor values of this vegetation at risk.

1.80 BLS understands the proposal has been associated with a transfer of Coomonderry property to NPWS. This effectively takes on the character of an “offset” in which further damage to one property through rezoning and intensification of settlement is compensated for by such a transfer. This practice is very controversial and is unacceptable under BirdLife Australia Policy.

2.0 THE 'BERRY CORRIDOR'

2.10 BLS is aware and totally supportive of the "Berry Corridor" case, which has been provided to council, including the C.E.O., by Berry Landcare and the National Parks Association as both submission and deputation, and substantiates in considerable detail why the Recission must be rejected.

2.20 BLS recognizes the ecological credentials of the "Berry Corridor" in both concept and practice as it transects from the coast areas across the coastal plain, escarpment to the adjacent highlands as they have been presented to council and councillors in documentation. It is an exemplar of a progressive environmental and conservation project, sourced to community and landholders in the Shoalhaven.

2.30 BLS is particularly concerned with the impact such a rezoning and subsequent development would have on critical environment, birdlife and associated habitat corridor, which links key coastal ecology with escarpment and highlands as recognized in the Berry Corridor. The Berry Corridor project will allow movement of migratory and woodland birds across one of the largest cleared rural landscapes in the Shoalhaven.

2.40 It is of the greatest concern that any council consideration would not account for the existence of the area of concern in the Berry Corridor nor therefore consider the environmental implications of such a rezoning and development. These documents note the considerable investment in conservation actions over many years in the order of \$1.7 million.

2.50 This neglect of the Berry Corridor concept and project and of the Avian Fauna and Key Biodiversity Area implications outlined in Sections 3.0 and 4.0 is of substantial concern and testifies to the lack of veracity of the Proponent Proposal. This is exemplified in the "INDESCO" Planning Proposal Page 55 4.2.4 Point 2.1 which states: *the PP will not impact on any critical habitat or threatened species, populations or ecological communities, or their habitats.* This is unacceptable commentary without any substantiation and reflects the lack of attachment to the reality of geographic, ecological and conservation imperatives that embrace the site. Such predicted outcomes cannot be guaranteed and verge on outrageous.

2.60 Decision making concerning this site must take account of the degree of historic loss of environment, habitat and corridor in the broader area of the site and not participate in a decision that further exacerbates the accumulating damage to environment and ecology in a development which is advised should not occur.

3.0 AVIAN FAUNA CONSIDERATIONS

3.10 The Commonwealth Atlas of Living Australia database shows that there are 310 recorded bird species within 5 kms of the site address and 46 bird species recorded within a 1 km radius of the site. This includes key Threatened Species such as the Regent Honeyeater, Beach Stone Curlew, Eastern Curlew and Swift Parrot – all Critically Endangered; the Endangered Australasian Bittern and Glossy Black Cockatoo; the Vulnerable Eastern Ground Parrot, Gang Gang Cockatoo and Varied Sitella. This demonstrates that the site and immediate area is an important and critical avian biodiversity zone and on that basis needs special conservation consideration.

3.20 The same database records have 350 bird species listed for the Shoalhaven. That 310 of these occur in the vicinity of the site bears testimony to the high value biodiversity of the broader area containing the site.

3.30 The Atlas also has a record of 1261 species in total listed for that same 5km zone, embracing mammals, birds, reptiles, amphibians, fish, molluscs, arthropods, insects, fungi and the most numerous – plants.

3.41 BLS would note that the Proponents environmental assessments in relation to Threatened Species and specifically birds, is quite inadequate. The avian suite is not identified or referred to at all and the assessment of existence of Threatened Species birds is inadequate and simply unacceptable. The process of observation is not detailed and seems cursory at best. See Point 2.5 where the proponent says there will be no threat to threatened species but does not name the threatened species. That comment is unacceptable.

3.42 The Proponents “Ecological Constraints Assessment” Page 4 / 95 lacks any recognition of threatened species specific to birds. This is critical as most bird species that could be found on the site would migrate to and through the site at specific times with seasonal movement an overlay on that behaviour. There has been quite insufficient time to properly establish an adequate profile of birds on the site and its specific connectivity to adjacent habitat and corridor.

3.43 The same Assessment [Page 4/94] notes that *‘field survey did not identify any habitat trees which may provide roosting or breeding for birds’*. **This is a nonsensical statement given that every tree, solitary or within plant community is habitat for birds and reflects a very poor understanding of bird habitat.**

3.50 There is little or no recognition in the proposal documentation of the important environmental and ecological connections of the site beyond the boundaries of the site, especially as this involves the Berry Corridor, Coomonderry Wetland and Key Biodiversity areas.

4.0 COOMONDERRY WETLAND

4.10 It is to be noted then that the Proponent Proposal can have no validity without an investigation of likely impacts on the wetland in terms of hydrology, fauna, habitat and corridor.

4.20 The Coomonderry Wetland, immediately east of the land in question, is an established concentration of habitat for the iconic, Australasian Bittern, Endangered at both the state and Federal level, is known to migrate from the Riverina.

4.30 The Coomonderry Wetland is a wetland of national importance (ANCA 1996) being the largest semi-permanent freshwater swamp on the New South Wales coast (Figure 2) and represents 34 percent of this type of wetland in the State (Goodrick 1970).

4.40 The Illawarra Regional Landscape and Environment Study (Department of Environment and Planning 1981) categorises the wetland as Ilc-Priority Protection requiring protection against polluting land uses.

4.50 (NPWS Assessment) Coomonderry Swamp is the only large semi-permanent freshwater wetland on the south coast and protects approximately one third of this type of habitat within NSW. It is an important drought refuge when smaller coastal wetlands and inland wetlands are dry and supports a diverse range of bird species and large populations of such species as purple swamphen *Porphyrio porphyrio*, Eurasian coot *Fulica atra*, Pacific black duck *Anas superciliosa*, hardhead *Aythya australis*, hoary-headed grebe, *Poliiocephalus poliocephalus* and black swan *Cygnus atratus*. It is a breeding area for several species.

5.0 KEY BIODIVERSITY AREA CONSIDERATIONS

5.11 BLS has a continuing interest in our nomination of the Shoalhaven Heads area to BirdLife Australia as a Key Biodiversity Area under conventions of the IUCN, the International Union Conservation of Nature.

5.12 The area under consideration includes Seven Mile Beach, adjacent Coomonderry Swamp, Shoalhaven River estuary and Comerong Island. This adds significant evidence to the status of the area as a key area of biodiversity and as part of a larger area of the highest ecological significance.

5.20 It is of special significance within the Key Biodiversity Area profile within the Shoalhaven that the Berry Corridor includes Barren Grounds Nature Reserve, which itself is part of a Key Biodiversity Area that includes the Cambewarra Mountain Nature reserve and Budderoo National Park.

5.30 This profile indicates that the ecological significance of the area, which is the true geographical context of the Wire Lane property is of a high order, and thus further decisions should reflect this.